

BEFORE THE  
SHORELINES HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF A SHORELINE  
VARIANCE PERMIT GRANTED BY  
PIERCE COUNTY AND DISAPPROVED  
BY DEPARTMENT OF ECOLOGY,

PAUL J. PUTNAM and PIERCE  
COUNTY

Appellants,

v.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

and

J. ALBERT and NORMA BREVIK,

Intervenors.

SHB No. 84-46

ORDER DISMISSING REQUEST  
FOR REVIEW AT APPELLANTS'  
REQUEST

Appellant, Paul J. Putnam, filed his request to withdraw his  
request for review on January 29, 1985.

Appellant, Pierce County filed its request to withdraw on  
February 11, 1985 (dated February 8, 1985).

Having considered the above and:

- 1 1. Intervenor's Objection and Memorandum filed February 8, 1985,  
2 and
- 3 2. Letter of respondent Department of Ecology dated February 8,  
4 1985 and filed that date, and
- 5 3. the records and file herin and being fully advised, the  
6 Board finds:

7 That pursuant to WAC 461-08-010 the pre-trial rules of procedure  
8 before Superior Courts of the State of Washington apply to these  
9 proceedings as in civil cases, and

10 That under CR41(a) the appellants have each requested dismissal  
11 before resting at the conclusion of their case, and such dismissal  
12 is mandatory, and

13 That intervenors have requested the following relief:

14 a. An Order affirming the denial by the State of Washington,  
15 Department of Ecology of the Shoreline Management Variance Permit  
16 No. 490-14-3627, PAUL PUTNAM, Applicant, and

17 b. An Order requiring the Appellant to dismantle the existing  
18 deck structure constructed in violoation of Pierce County Shoreline  
19 Use Regulations 65.62.050(C), (D), (4) (b) and Pierce County Shoreline  
20 Use Regulations 65.76.300, and

21 c. An Order requiring the Appellants to build their deck, if at  
22 all, no higher than four (4) feet from the finished ground level in  
23 accordance with Pierce County Shoreline Use Regulation 65.62.050(D) (4) (b);

24 and

25 d. For such other and further relief as the Board deems required  
26 under the Shorelines Management Act, the Pierce County Master Program,

27 ORDER DISMISSING  
REQUEST FOR REVIEW  
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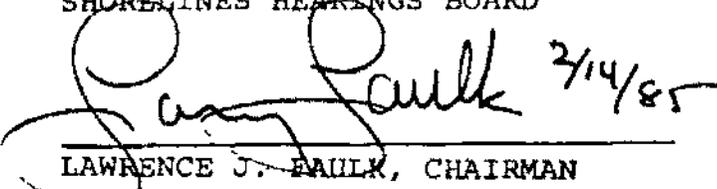
1 and the Pierce County Shoreline Use Regulations.

2 That under CR41(a)(3) the first demand constitutes a defense,  
3 not a counterclaim. That the second, third and fourth demands  
4 constitute counterclaims for mandatory orders which are beyond the  
5 jurisdiction of the Board to issue, and therefore this request for  
6 review must be dismissed. This is not a determination on the  
7 merits of any issue herein.

8 NOW THEREFORE IT IS ORDERED THAT this request for review is  
9 dismissed.

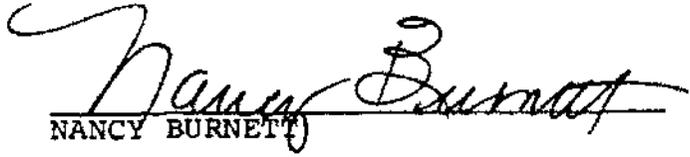
10 DONE at Lacey, WA this 19<sup>th</sup> day of February, 1985.

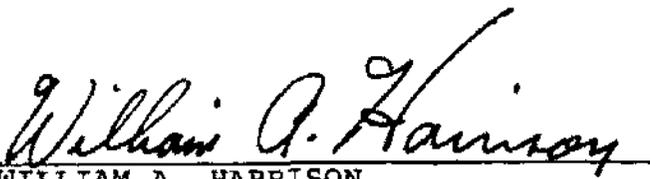
11 SHORELINES HEARINGS BOARD

12  2/14/85  
13 \_\_\_\_\_  
14 LAWRENCE J. FAULK, CHAIRMAN

15   
16 \_\_\_\_\_  
17 DENNIS DERICKSON, MEMBER

18   
19 \_\_\_\_\_  
20 WICK DUFFORD, LEGAL MEMBER

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22 \_\_\_\_\_  
23 NANCY BURNETT

24   
25 \_\_\_\_\_  
26 WILLIAM A. HARRISON  
27 Administrative Appeals Judge

28 ORDER DISMISSING  
29 REQUEST FOR REVIEW  
30 SHB No. 84-46